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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/316,515	05/21/1999	DAVID B. KRIG	279.112US1	7896	
7	590 02/12/2003				
SCHWEGMAN LUNDBERG WOESSNER AND KLUTH PA			EXAMINER		
P O BOX 2938 MINNEAPOL	S IS, MN 55402		EVANISKO, GE	ORGE ROBERT	
			ART UNIT	PAPER NUMBER	
			3762		
			DATE MAILED: 02/12/2003		

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No. Applicant(s) MRIGET AL				Ana
Examiner Examiner Secretary Secret			Application No.	Applicant(s)
George R Evanisko - The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. If the period for reply specified above is less than thinty (0) days, a reply within the statisty period will apply and will reply (0) days will be considered timely. If the period for reply specified above is less than thinty (0) days, a reply within the statisty period will apply and will reply (1) MONTHS from the mailing date of this communication. If the period for reply specified above is less than thinty (0) days, a reply within the statisty period will apply and will reply (1) MONTHS thron the mailing date of this communication, are 3x (4) MONTHS from the mailing date of this communication, even if timely filed, may reduce any sentence pacified management of the period for reply specified and period for reply to this Office action. 10 The proposed drawing correction filed on	<u>.</u>		09/316,515	KRIG ET AL.
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A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensive of time may be availabled under the provisions of 3 CFR 1.736(a). In no event, however, may a reply be timely fried. If the period for reply specified above is less than thing (30) days, a reply within the statutory maintain of reply in 10 period for reply specified above, the maximum statutory period may be subjected to reply specified above, the maximum statutory period may be subjected to the communication. Falsate to reply within the set of statuted period for reply with by statute, cause the application to become ABANDONEO (33) vision, and statuted period for reply with the set of statuted period of the communication. Falsate to reply within the set of statuted period for reply with by statute, cause the application to become ABANDONEO (33) vision, and statuted the communication, even if a timely flexit, may reserve any search a statute of the communication even if a timely flexit, may reserve any search a statute of the communication even if a timely flexit, may reserve any search a statute of the communication. 1) Sequence of the search of the search and statute of the search and statute of the communication even if a timely flexit, may reserve any search a statute of the search and statute of the search and statute of the search and statute and statute of the search and statute	Period	· · · · · · · · · · · · · · · · · · ·	pears on the cover sheet with the	e correspondence address
1) Responsive to communication(s) filed on 16 December 2002. 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-91 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) 55-57 and 90 is/are allowed. 6) Claim(s) 1-54.58-89 and 91 is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some *c) None of: 1. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121. Attachment(s) Notice of Paferences Cited (PTO-892) Notice of Draftsperson's Patent Drawing Review (PTO-948)	THI - E: af - If - If - Fa - An	E MAILING DATE OF THIS COMMUNICATION. xtensions of time may be available under the provisions of 37 CFR 1.1 fter SIX (6) MONTHS from the mailing date of this communication. the period for reply specified above is less than thirty (30) days, a reply NO period for reply is specified above, the maximum statutory period value to reply within the set or extended period for reply within the set or extended period for reply will, by statute my reply received by the Office later than three months after the mailing	36(a). In no event, however, may a reply be y within the statutory minimum of thirty (30) owill apply and will expire SIX (6) MONTHS from the application to become ABANDO	timely filed lays will be considered timely. om the mailing date of this communication. NED (35 U.S.C. § 133).
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* Application/Control Number: 09/316,515

Art Unit: 3762

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/16/02 has been entered.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The specification does not state that the first indicated pacing interval is calculated by "averaging a most recent V-V interval duration with a stored previously-computed value of the first indicated pacing interval". The only place where "averager" is mentioned is on page 12 of the specification.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-54, 58-89 and 91 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The subject matter which was not described in the specification is the

^e Application/Control Number: 09/316,515

Art Unit: 3762

use of calculating the first indicated pacing interval by "averaging a most recent V-V interval duration with a stored previously-computed value of the first indicated pacing interval". The written specification does not discuss how the average is performed between the V-V interval and the previous value of the indicated pacing interval or how the weights are applied to the average. Although, the specification does disclose the use of a sum of the V-V interval and the previous indicated pacing interval.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6-22, 33-49, 60, 61, and 71-87 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 6, 8, 12, 15, 33, 35, 39, 42, 60, 71, 73, 77, and 80, the claims are vague since the independent claim has the first indicated interval being calculated using an average, but these dependent claims have the value calculated using an average.

Allowable Subject Matter

Claims 55-57 and 90 are allowed.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Application/Control Number: 09/316,515

Art Unit: 3762

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George R Evanisko whose telephone number is 703 308-2612. The examiner can normally be reached on M-F 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on 703 308-5181. The fax phone numbers for the organization where this application or proceeding is assigned are 703 306-4520 for regular communications and 703 306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-1148.

George R Evanisko Primary Examiner Art Unit 3762 2/7/3

GRE February 7, 2003